

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6175

SAM BARTLEY,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; ATTORNEY GENERAL OF
THE STATE OF SOUTH CAROLINA,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. Henry M. Herlong, Jr., District
Judge. (CA-95-976-0-20BD)

Submitted: July 23, 1996

Decided: July 30, 1996

Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Sam Bartley, Appellant Pro Se. Donald John Zelenka, Chief Deputy
Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order dismissing his petition brought under 28 U.S.C. § 2254 (1988), as amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1217. Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1988). The magistrate judge recommended that relief be denied and advised Appellant that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of probable cause to appeal and dismiss. To the extent that a certificate of appealability is required, we deny such a certificate and dismiss. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED